

Remarks

Claims 9-12, 21-30, 32-77, and 79 are pending in the application.

Claim 9 has been amended. Support for the amendments can be found throughout the application, including the claims as originally filed. Therefore, no new matter has been added. Importantly, the claim amendments should not be construed to be an acquiescence to any of the claim rejections. Rather, the amendments to the claims are being made solely to expedite the prosecution of the above-identified application. The Applicants expressly reserve the right to further prosecute the same or similar claims in subsequent patent applications claiming the benefit of priority to the instant application. 35 USC § 120.

Claim Rejections Based on the Judicially-Created

Doctrine of Obviousness-Type Double Patenting

Various pending claims stand rejected under the judicially-created doctrine of obviousness-type double patenting, based on the Examiner's contention that they are not patentably distinct from various claims in United States Patent 6,307,087; and various claims of United States Patent 6,395,916. The Applicants respectfully disagree; however, solely to expedite prosecution to allowance of the pending claims, the Applicants submit herewith two Terminal Disclaimers, which comply with the requirements of 37 CFR 1.321(c), corresponding to the patents cited by the Examiner, accompanied by two checks for the required fees for a Large Entity.

Accordingly, the Applicants respectfully request the withdrawal of the obviousness-type double patenting rejection of the claims.

Response to Rejections under 35 U.S.C. § 102(b)

Claim 9 stands rejected under 35 U.S.C. § 102(b) based on the Examiner's contention that it is anticipated by Hayashi et al. (U.S. Patent No. 5,231,202). The Applicants respectfully traverse this rejection. The Examiner contends that the ligand of structure 3 in claim 9 is anticipated by Hayashi et al. when X is OR and R is hydrogen or

alkyl and Y is PR_2 wherein R is aryl. Claim 9 has been amended to remove OR from the definition of X or Y. Therefore, Hayashi et al. does not anticipate each and every element of the claim.

Accordingly, the Applicants respectfully request the withdrawal of the rejections based on 35 U.S.C. § 102(b).

Response to Rejections under 35 U.S.C. § 102(e)

Claim 9 stands rejected under 35 U.S.C. § 102(e) based on the Examiner's contention that it is anticipated by Tomao et al. (U.S. Patent No. 6,143,834). The Applicants respectfully traverse this rejection. The Examiner contends that the ligand of structure 3 in claim 9 is anticipated by Tamao et al. when X is PR_2 wherein R is aryl, and Y is OR when R is hydrogen. Claim 9 has been amended to remove OR from the definition of X or Y. Therefore, Tomao et al. does not anticipate each and every element of the claim.

Accordingly, the Applicants respectfully request the withdrawal of the rejections based on 35 U.S.C. § 102(e).

Fees

The Applicants believe they have provided for the required fees in connection with the filing of this paper. Nevertheless, the Director is hereby authorized to charge any additional required fee to our Deposit Account, 06-1448.

Conclusion

For the foregoing reasons, the Applicants respectfully request reconsideration and withdrawal of the pending rejections. Applicants believe that the pending claims are now in condition for allowance and early notification to this effect is earnestly solicited. If any questions are raised by this Response, the Examiner is urged to contact the undersigned at the telephone number listed below.

Respectfully submitted,
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